

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Re)	
Restricted Delivery (Endorsement Re)	

Mr. Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road
P.O. Box 541
Phoenixville, PA 19460

Total Postage _____
Sent To _____
 Street, Apt. No., or PO Box No. _____
 City, State, ZIP+4 _____

PS Form 3800, January 2

5549 0227 9000 02E0 1002

Sender: Please print your name, address, and ZIP+4 in this box.

Mr. Stephen Forostiak (3WC32)
 U.S. Environmental Protection Agency
 1650 Arch Street
 Philadelphia, PA 19103

ROUTING AND TRANSMITTAL SLIP Date **12-5-03**

TO: (Name, office symbol, room number, building, Agency/ Post)

	Initials	Date
1. R. Davis	RD	12/5/03
2. H. Daw	HD	12/15/03
3. R. Smolki	RS	12-17-03
4. J. Webb	JW	12-17-03
5. J. Burke	JB	12-17-03

Action	File	Note and Return
<input checked="" type="checkbox"/> Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	<input checked="" type="checkbox"/> Signature
Coordination	Justify	

REMARKS
S-CaFo signed by Respondent
Neuber Environmental Services, Inc.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/ Post)
Stephen Forostiak
5041-103

Room No. — Bldg.
108
Phone No.
2136

OPTIONAL FORM 41 (Rev. 1-94)
 Prescribed by GSA
 UNICOR FPI - SST



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 4, 2004

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road
P.O. Box 541
Phoenixville, PA 19460

Principal Due:	\$220.00
Interest:	\$.37
Handling:	\$ 15.00
Penalty:	\$ 0.00
Balance Due:	\$235.37

RE: Neuber Environmental Services

Docket/BD No. CAA-03-2004-0025/04-020

FIRST DELINQUENCY NOTICE

This delinquency letter is being sent to you as representative for the referenced debtor . The debtor has not paid the debt owed to the U.S. Environmental Protection Agency (EPA) for violations of the Clean Air Act (CAA), 42 U.S.C. §7413(g) in the Consent Agreement and Final Order dated **December 18, 2003**.

This debt is now considered past due and must be paid immediately. Interest and handling charges are accruing at the rate of 2% and will continue to accrue until the debt is paid. Please send payment today. Your cashier's or certified check must be made payable to UNITED STATES TREASURY and forwarded to:

EPA Region III
P.O. Box 360515
Pittsburgh, PA 15251-6515

Please include the information in the reference line above on the face of your check.

If you have any questions regarding this matter, please feel free to contact Ellen Lucchetti at (215) 814-3287 or Lucchetti.Ellen@epa.gov.

Sincerely,

Tricia Gaghan

Accountant

cc: Stephen Forostiak (3WC32)
L. Guy (3RC00)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

December 19, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Re: Neuber Environmental Services, Inc. – Late Asbestos Notification
Docket No. CAA-03-2004-0025

Dear Mr. LaRiviere:

Enclosed, please find the final Consent Agreement and Final Order ("CAFO") resolving case number: CAA-03-2004-0025. The CAFO was signed by the Regional Judicial Officer December 19, 2003 and filed with the Regional Hearing Clerk on December 19, 2003. Once penalty has been paid, the case will be considered closed.

Thank you for your cooperation in this matter. If you have any questions, I can be reached at (215) 814-2136.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Forostiak".

Stephen Forostiak
Pesticides/Asbestos Enforcement Officer

Enclosures

NEUBER ENVIRONMENTAL
SERVICES, INC.
P.O. BOX 541
PHOENIXVILLE, PA 19460

NATIONAL PENN BANK
BOYERTOWN, PA
60-878/313

7134

01/29/2004

PAY TO THE
ORDER OF

US EPA REGION III

\$ **220.00

~~Two Hundred Twenty and 00/100~~

DOLLARS

US EPA REGION III

MEMO 03-021

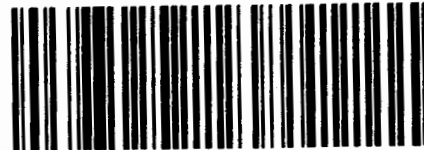
⑈007134⑈ ⑆031308784⑆ ⑈8162018⑈

Kathy A. Good

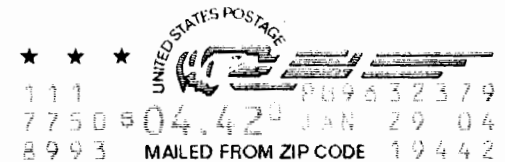
CERTIFIED MAIL

NEUBER
ENVIRONMENTAL SERV

P.O. Box 541
Phoenixville, PA 19460



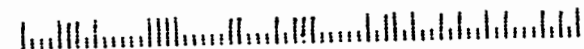
7099 3220 0001 7334 1500



EPA Region III
Pesticides/Asbestos Enforcement
Branch
Mail Code: 3WC32
1650 Arch Street
Philadelphia, PA 19103-2029

JAN 30 2004

19103+2029 01



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road
P.O. Box 541
Phoenixville, PA 19460

2. Article Number

(Transfer from service label)

7001 0320 0006 1220 6455

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Kathy Wood*☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

11-19-03

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road
P.O. Box 541
Phoenixville, PA 19460

2. Article Number

(Transfer from service label)

7001 1140 0001 0984 6976

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Kathy Wood*☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

12-24-03

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Requirement)Restricted
(Endorsement)

Total Post

Sent To

Street, Apt.
or PO Box
City, State, Zip

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road
P.O. Box 541
Phoenixville, PA 19460

Postmark
Here

PS Form 3800, January 2001

See Reverse for Instructions

ROUTING AND TRANSMITTAL SLIP

Date

12-5-03

TO: (Name, office symbol, room number,
building, Agency/ Post)

Initials

Date

1. R. Davis

12/8

12/8

2. H. Daw

12/8

12/8

3. R. Smolki

12/8

12/15/03

4. J. Webb

12/17

12-17-03

5. J. Burke

12/17

12-17-03

Action	File	Note and Return
<input checked="" type="checkbox"/> Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

S-CaFo signed by Respondent
Neuber Environmental Services, Inc.

DO NOT use this form as a RECORD of approvals, concurrences, disposals,
clearances, and similar actions

FROM: (Name, org. symbol, Agency/ Post)

Room No. — Bldg.

Stephen Forstie

108

Phone No.
2136

5041-103

OPTIONAL FORM 41 (Rev. 1-94)

Prescribed by GSA

UNICOR FPI - SST

5455 0220 1220 0006 0000 0320 7001

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Rec)		
Restricted Deliv (Endorsement Re		
Total Postage		
Sent To	Mr. Jeffrey A. LaRiviere Neuber Environmental Services, Inc. 42 Ridge Road P.O. Box 541 Phoenixville, PA 19460	
Street, Apt. No., or PO Box No.		
City, State, ZIP		



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

December 19, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Re: Neuber Environmental Services, Inc. – Late Asbestos Notification
Docket No. CAA-03-2004-0025

Dear Mr. LaRiviere:

Enclosed, please find the final Consent Agreement and Final Order ("CAFO") resolving case number: CAA-03-2004-0025. The CAFO was signed by the Regional Judicial Officer December 19, 2003 and filed with the Regional Hearing Clerk on December 19, 2003. Once penalty has been paid, the case will be considered closed.

Thank you for your cooperation in this matter. If you have any questions, I can be reached at (215) 814-2136.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Forostiak", is written over a horizontal line.

Stephen Forostiak
Pesticides/Asbestos Enforcement Officer

Enclosures

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

IN RE:

Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Respondent

Docket No. CAA-03-2004-0025

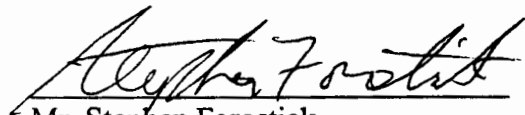
Consent Agreement and
Final Order

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Consent Agreement and Final Order were hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029 and that true and correct copies were served regular U.S. Mail upon the following person:

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Date: 12-19-03


Mr. Stephen Forostiak
Pesticides/ Asbestos Enforcement Officer
U.S. EPA - Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:	:
	:
Neuber Environmental Services, Inc.	:
42 Ridge Road	:
Poenixville; PA 19460	: DOCKET NO.: CAA-03-2004-0025
	:
	:
	:
RESPONDENT	:

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Respondent, Neuber Environmental Services, Inc., and filed along with the attached Final Order pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. § 7413 and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This Consent Agreement, and the accompanying Final Order, address alleged violations by Respondent of Section 112 of the Clean Air Act, 42 U.S.C. § 7412 ("CAA" or the "Act") and regulations promulgated thereunder at 40 C.F.R. Part 61, Subpart M, the National Emission Standards for Hazardous Air Pollutants for Asbestos ("Asbestos NESHAP).

II. GENERAL PROVISIONS

2. Respondent admits to EPA's jurisdiction as set forth in this Consent Agreement.

3. Respondent neither admits nor denies the specific factual allegations and the conclusions of law set forth in this Consent Agreement and the attached Final Order.
4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), the issuance of the accompanying Final Order, or the enforcement of the CAFO.
5. Respondent consents to the issuance of the accompanying Final Order, and to the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.
6. Respondent agrees to pay its own costs and attorney fees.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. In accordance with 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:
 - A. Respondent, Neuber Environmental Services, Inc., is a corporation incorporated in the Commonwealth of Pennsylvania with a primary business address of 42 Ridge Road, Phoenixville, Pennsylvania 19460 and is a contractor specializing in asbestos abatement.
 - B. Respondent is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).
 - C. Pursuant to 40 C.F.R. § 61.141 "facility means any institutional, commercial, public, industrial, or residential structure, installation, or building..." The Newcomen Society located at 412 Newcomen Road, Exton, Pennsylvania, is a facility within the meaning of 40 C.F.R. § 61.141.
 - D. Pursuant to 40 C.F.R. § 61.141 "Regulated Asbestos-Containing Material ('RACM') means (a) friable asbestos material, (b) Category I nonfriable asbestos containing material ('ACM') that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations."

- E. Pursuant to 40 C.F.R. § 61.141 "remove means to take out any RACM or facility components that contain or are covered with RACM from any facility."
- F. Pursuant to 40 C.F.R. § 61.141 "renovation means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component."
- H. Pursuant to 40 C.F.R. § 61.141 "owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both."
- I. Respondent, at the time of the renovation operations for Newcomen Society, which began on or about May 27, 2003, was the "operator" as the term is defined by 40 C.F.R. § 61.141.
- J. 40 C.F.R. § 61.145(b) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to which this section applies shall: (1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. (2) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent. (3) Postmark or deliver the notice...(i) at least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material)....
- K. On May 21, 2003, EPA received notification of an asbestos renovation project at the Newcomen Society from Neuber Environmental Services, Inc. The project involved the removal of 226 linear foot of pipe insulation in Crawl Space 1 and 387 linear foot of pipe insulation in Crawl Space 2.
- L. According to the asbestos notification, the removal was to begin on May 27, 2003. Therefore, the notification needed to be postmarked by May 14, 2003, to fulfill the requirement. However, it was postmarked on May 20, 2003.
- M. Since the asbestos project notification for Newcomen Society was mailed late, Respondent violated the notification requirements of 40 C.F.R. § 61.145(b).

IV. SETTLEMENT RECITATION

Compliance

8. Respondent herein certifies to Complainant and to EPA that, upon investigation, to the best of its knowledge and belief, it presently is in compliance with the provisions of the Act, and the regulations promulgated thereunder, that are referenced in this Consent Agreement and that all violations alleged in the Consent Agreement have been remedied.

Civil Penalty

9. In settlement of the allegations enumerated above, Respondent agrees to pay a civil penalty amount of two hundred twenty dollars (\$220.00) in full satisfaction of all claims for civil penalties which Complainant may have under Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413, and the Asbestos NESHAP, as set forth at 40 C.F.R. Part 61, Subpart M. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, Section 113, 42 U.S.C. § 7413 penalty assessment criteria, including the seriousness of Respondent's violations and Respondent's good faith efforts to comply as provided in the Clean Air Act Stationary Source Civil Penalty Policy, Appendix III, and the Asbestos NESHAP, as set forth at 40 C.F.R. Part 61, Subpart M. Such payment shall be made by Respondent no later than thirty (30) days after the effective date of the accompanying Final Order.
10. Payment of the civil penalty amount required under the terms of Paragraph 9, above, shall be made by either cashier's check, certified check or electronic wire transfer. All checks shall be made payable to "Treasurer, United States of America" and shall be mailed to the attention of U.S. EPA Region III, P.O. Box 360515, Pittsburgh, Pennsylvania 15251-6515 (overnight deliveries shall be sent to Mellon Client Service Center, 500 Ross Street, Room 670, Pittsburgh, PA 15262-0001, ATTENTION: U.S. EPA, Region III, P.O. Box 360515). All payments made by check also shall reference the above case caption and docket number (CAA-03-2004-0025). All electronic wire transfer payments shall be directed to Mellon Bank, Pittsburgh, PA, ABA No. 043000261, crediting account number 9108552, lockbox 36051. At the same time that any payment is made, copies of any corresponding check, or written notification confirming any electronic wire transfer, shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Stephen Forostiak (3WC32), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.
11. The Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

Reservation of Rights

12. This Consent Agreement and the attached Final Order only resolve those claims which are alleged in Paragraph 7, above. Nothing herein shall be construed to limit the authority of the EPA to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nor shall anything in this Consent Agreement and the attached Final Order be construed to limit the United States' authority to pursue criminal sanctions.
13. EPA reserves any rights and remedies available to it to enforce the provisions of this Consent Agreement, the Act and its implementing provisions, and of any other federal laws or regulations for which it has jurisdiction, following the entry of this Consent Agreement.

Waiver of Hearing

14. For the purposes of this proceeding only, the Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), concerning the finality or validity of this CAFO, or with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its rights to appeal the accompanying Final Order.

Effective Date

15. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III.

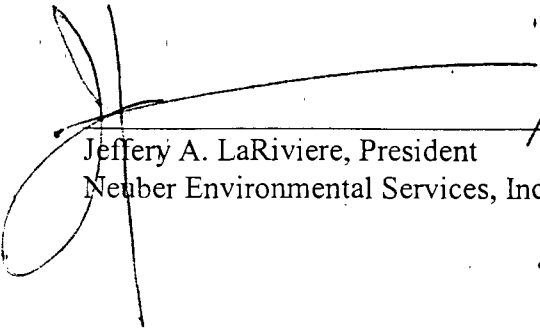
The undersigned representative of Respondent certifies that he is fully authorized to execute this Consent Agreement and to legally bind the party he represents.

For Respondent

Neuber Environmental Services, Inc.:

11-28-03

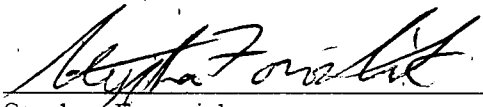
Date


Jeffery A. LaRiviere, President
Neuber Environmental Services, Inc.

For Complainant:

12-5-03

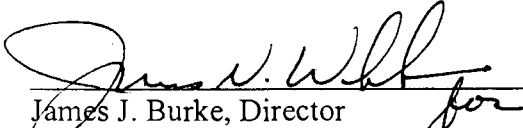
Date


Stephen Forostiak
Asbestos Enforcement Officer
U.S. Environmental Protection Agency, Region III

Accordingly, the Waste and Chemicals Management Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order. The amount of the recommended civil penalty assessment is two hundred twenty dollars (\$220.00).

December 17, 2003

Date


James J. Burke, Director
Waste and Chemicals Management Division
U.S. Environmental Protection Agency, Region III

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:

Neuber Environmental Services, Inc.
42 Ridge Road
Phoenixville, PA 19460

Docket No. CAA-03-2004-0025

Respondent

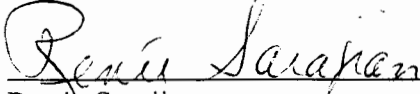
FINAL ORDER

The undersigned accepts and incorporates into this Final Order by reference the Preliminary Statement, General Provisions, Findings of Fact and Conclusion of Law, and Settlement Recitation provisions set forth in the foregoing Consent Agreement as between Complainant, the Director of the Waste and Chemicals Management Division, United States Environmental Protection Agency ("EPA"), Region III, and Respondent Neuber Environmental Services, Incorporated ("Neuber").

NOW THEREFORE, pursuant to 40 C.F.R. § 22.18(b)(3) the undersigned ratifies the foregoing Consent Agreement and HEREBY ORDERS that Respondent Neuber shall be liable for a civil penalty in the amount of two hundred and twenty dollars (\$220.00) for the civil violations alleged therein.

It is FURTHER ORDERED that the Respondent shall pay the two hundred and twenty dollar (\$220.00) civil penalty within thirty (30) days of the date that this Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III.

12/18/03
Date



Renee Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Stephen Forostiak
Name of Contact person

12-4-03
Date

in the Waste & Chemicals Management Div.
Office

at 42136
Phone number (320) 321-3212

☐ Non-SF Jud. Order/Consent
Decree. DOJ COLLECTS

☒ Administrative Order/
Consent Agreement
FMD COLLECTS PAYMENT

☐ SF Jud. Order/Consent
Decree. FMD COLLECTS

Due Date

1-22-04

☐ This is an original debt

☐ This is a modification

Name of Person and/or Company/Municipality making the payment

Neuber Environmental Services, Inc.

The Total Dollar Amount of Receivable \$220.00

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number CAA-03-2004-0025

The Site-Specific Superfund Acct. Number

The Designated Regional/HQ Program Office

Pesticides / Asbestos

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number 04-020

If you have any questions call:

Ellen M. Pucchetto
Name of Contact

12-22-03
Date

in the Financial Management Office, phone number: 4-3287

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005

2. Originating Office (ORC)
3. Designated Program Office

*IFMS
12-22-03
encl*

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
3. Regional Hearing Clerk

2. Designated Program Office
3. Regional Counsel

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:

Neuber Environmental Services, Inc.

42 Ridge Road

Poenixville, PA 19460

DOCKET NO.: CAA-03-2004-0025

RESPONDENT

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Respondent, Neuber Environmental Services, Inc., and filed along with the attached Final Order pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. § 7413 and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This Consent Agreement, and the accompanying Final Order, address alleged violations by Respondent of Section 112 of the Clean Air Act, 42 U.S.C. § 7412 ("CAA" or the "Act") and regulations promulgated thereunder at 40 C.F.R. Part 61, Subpart M, the National Emission Standards for Hazardous Air Pollutants for Asbestos ("Asbestos NESHAP").

II. GENERAL PROVISIONS

2. Respondent admits to EPA's jurisdiction as set forth in this Consent Agreement.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

IN RE:

Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Docket No. CAA-03-2004-0025

CONSENT AGREEMENT

Respondent

SUPER CA/FO CONCURRENCE PACKAGE CHECKLIST

Document

Location

X	Reservation of Rights Language	In Consent Agreement
X	Confidential cover memo	Inside Left
X	Penalty justification memo	Inside Left & in Party III "Recommended Penalty Settlement" section of Confidential Cover memo
X	Transmittal Memo to RA or Judicial Officer	Inside right
X	Case Conclusion Form (new 12/01/2003)	Inside Left
X	Email transmittal memo; copy of CA/FO, etc., to Bill Smith	Email sent to Bill Smith on <u>12-19-03</u>
X	Accounts Receivable Form	Inside Left
X	If a SEP Project calculation Form	N/A
X	If a SEP Memo to file evaluating SEP in accordance with factors in the policy	N/A
X	Buck Slip	Front Cover
X	Concurrence sheet	Inside Right


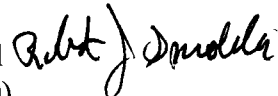
X	WAR Item	Inside Left
X	National Significant Issues Form (NSI Check)	Inside Left
X	Administrative Case Data Form	Inside Left
X	Paper Reduction Act	No PRA issues
X	Small Business applicability	Disclosure Sheet mailed with Notice of Noncompliance
X	SEC Notice	Inside Left
X	Cover letter	Inside Left
X	Audit Policy Check	None



WAR ITEM

Region 3 Files CAFO Against Neuber Environmental Services, Inc., Phoenixville, PA - On December 18, 2003, Region III entered into a Consent Agreement and Final Order (CAFO) with Neuber Environmental Services, Inc. of Phoenixville, PA for violations of the National Emission Standard for Asbestos ("the Asbestos NESHAP"). The CAFO is in settlement of the asbestos contractor's failure to provide EPA at least ten working days advance notice of intended demolition/renovation activities at The Newcomen Society in Exton, Pennsylvania as required by Asbestos NESHAP notification regulations. Neuber Environmental Services, Inc. has been assessed a \$220.00 penalty. **(Stephen Forostiak ext. 2136)**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

Subject: Clean Air Act, National Emissions Standards for Hazardous Air Pollutants
Neuber Environmental Services, Inc.
Docket No. CAA -03-2004-0025
Consent Agreement and Final Order

From:  William C. Early, Regional Counsel 
Office of Regional Counsel (3RC00)

 James J. Burke, Director 
Waste and Chemicals Management Division (3WC00)

To: Renée Sarajian, Regional Judicial Officer
Office of Regional Counsel (3RC00)

The attached Consent Agreement has been negotiated pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. § 22.13(b) and .18(b)(2), in settlement of alleged violations of Section 113(d) of the Clean Air Act ("CAA" or the "Act"), as amended, 42 U.S.C. § 7413(d), by Neuber Environmental Services, Inc. This Consent Agreement and the accompanying Final Order address violations by Respondent of section 112 of the Act and the federal regulations implementing the National Emission Standards for Hazardous Air Pollutants for asbestos ("Asbestos NESHAP"), as set forth at 40 C.F.R. Part 61, Subpart M. A penalty of two hundred and twenty dollars (\$220.00) has been calculated in accordance with the CAA Stationary Source Civil Penalty Policy, Appendix III - the Asbestos Demolition and Renovation Civil Penalty Policy.

We concur with the terms of the attached Consent Agreement and we recommend that you sign the Final Order, in accordance with the Consolidated Rules at 40 C.F.R. § 22.18(b)(3).

cc: Jeffrey A. LaRiviere, Neuber Environmental Services, Inc.

Notice of Securities and Exchange Commission Registrants' Duty To Disclose Environmental Legal Proceedings

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.

NON-CERCLA ADMINISTRATIVE PENALTY CASE DATA FORM

Revised: 06/09/03

ENFORCEMENT ACTION NAME (RESPONDENT): Newber Environmental Services Inc.
(Primary Respondent's Name)

REGIONAL HEARING CLERK'S DOCKET NUMBER: CAA-03-2004-0025

REGIONAL TECHNICAL CONTACT: Stephen Fornthak REGIONAL ATTORNEY: NA
Phone: 4-2136 Phone: 4-

FACILITY NAME (if different than Enforcement Action Name): Newcomen Society

Street: 412 Newcomen Road City: Exton County: Delaware State: PA Zip Code: 19341
FACILITY ADDRESS (Pls. use the location of the facility where the violation(s) occurred, not a P.O. Box Number)

FACILITY 4-DIGIT SIC Code(s): 8699 Federal Facility? Y ☒ N
Respondent is a Small Business (<100 employees)? Y/N

LAW/SECTION: CAA 113, _____ / _____ (See Attached Listing)(Statute/Section violated)List Primary Law/Section First)

DATE OF *COMPLAINT/S-CAFO/AO/**NOTICE OF DETERMINATION FILED: _____ / _____ / _____
*(Clocked in with Regional Hearing Clerk) (**- Division Director's signature)

PROPOSED PENALTY: \$ 220.00 (Penalty in Complaint or 1 day maximum statutory amount for a Notice Pleading Case)
(Is this an amended complaint?) Y/N Notice Pleading Case? Y/N

Multi-Media Action? Y ☒ N If yes, ✓ option(s): Inspection Complaint Settlement SEP

Environmental Justice? Y ☒ N If yes, ✓ option(s): Low Income Minority Population & Low Income
Minority Population Other

Audit Policy Applied? Y ☒ N If Yes, Disclosure Date: _____ / _____ / _____ (Date of the disclosure letter)

VIOLATION TYPE(S): Notification
(See attached violation type listing)
POLLUTANT(S): Asbestos
(Add additional violations and pollutants on blank sheet)

RELIEF SOUGHT: (✓ as many lines as apply) PEN INJ

CFR Violation Citation(s): 40 CFR 61.145(b)(1) 40 CFR _____ 40 CFR _____

Case Summary:(Add additional Case Summary information on blank sheet)

Failure to provide ten (10) working days notice to administrator prior
to asbestos work

A. Case and Facility Background

1. Court Docket/Regional Hearing Clerk Administrative Docket CAA-03-2004-0025
2. Respondent (Enforcement Action) Name Newber Environmental Services, Inc. Facility Small Business (<100 employees) ☒ N
3. Facility Name(s) New Cmen Society
4. Facility Address: Street: 412 Newcmen Rd City: Exton County: Chester St: PA Zip: 19341
5. (a) Primary 4-digit SIC-code 8699 (b) Other 4-digit SIC-codes _____ Federal Facility? (Y/N) ☒ N
6. (a) EPA Lead Attorney NA (b) EPA Technical Contact Stephen Forostick
7. Law(s) and Section(s) violated (e.g., CAA/112, CERCLA/107A, etc.) (Not USC or CFR) CAA 112
8. Action Type:
- ☐ (a) Administrative Compliance Orders ☐ (d) Federal Facility compliance agreement (not incl. RCRA matters)
- ☒ (b) Admin. Penalty Order (check below also) ☐ (e) Notice of Determination (NOD) or Notice of Non-Compliance
- ☐ with injunctive relief ☒ without injunctive relief ☐ (f) Superfund Admin Order for Cost Recovery
- ☐ (c) Consent decree or court order resolving a civil judicial action
9. Administrative action date: Issued _____ Final Order/CAFO/SCAFO 2-19-03 Field citation 2-19-03 (Clocked in with Regional Hearing Clerk)
- Notice of Determination (NOD) _____
- OR-Civil action date: Complaint Filed _____ CD Lodged _____ CD Entered _____
10. Was any part of this action multi-media? (Y/N) ☒ N If Yes, ☒ option(s): ☐ Inspection ☐ Complaint ☐ Settlement ☐ SEP
11. Was the Agency activity taken in response to Environmental Justice concerns? (Y/N) ☒ N If yes, ☒ option(s) below:
- ☐ Low Income ☐ Minority Population & Low Income ☐ Minority Population ☐ Other
12. Was Alternative Dispute Resolution used in this action? (Y/N) ☒ N
13. Was there an EPA media or section Initiative? Y/N ☒ N If yes, ☒ option(s):
- ☐ Airlines ☐ Community Based Environmental Protection ☐ Environmental Justice Concerns ☐ ELP
- ☐ Industrial Organic Chemical ☐ Iron and Steel Minimills ☐ Industrial Vegetable Oil ☐ North Denver
- ☐ NESS ☐ Other ☐ Project XL ☐ Telecommunications
- ☐ TSCA Lead 1018 Initiative ☐ TSCA 8E ☐ TSCA 12B
- ☐ SDWA UIC Class V Tribal Targeting Initiative ☐ Unknown

B. Compliance Actions (Non-SEP)(APO's w/o inj. relief [8(b) above], Superfund Admin Order for Cost Recovery [8(f) above] or Civil Cost Recovery action-
-SKIP THIS SECTION)

14. What action did violator accomplish prior to receipt of settlement/order or will take to return to compliance or meet addl. requirements? This may be due to settlement/order requirements or otherwise required by statute or regulation (e.g. actions related to an APO which did not specify compliance requirements) Where separate penalty and/or compliance orders are issued in connection w/same violation(s), report the following information for only one of those orders. Select response(s) from the following:

Physical Actions (Complete entire question 16)

- ☐ Best Management Practices (Includes O&M)
- ☐ Disposal Change
- ☐ Emissions/Discharge Change (e.g. pre-release treatment)
- ☐ Industrial/Municipal Process Change (includes flow reduction)
- ☐ RD/RA or RA only or CMI
- ☐ Remediation (In Situ/Ex-Situ Treatment/Containment)
- ☐ Removal
- ☐ Restoration
- ☐ Storage Change
- ☐ Use Reduction
- ☐ Other (please describe) _____

Non-Physical Actions

- ☐ Auditing
- ☐ Environmental Management Systems
- ☐ Financial Responsibility Requirements
- ☐ Information Letter Response
- ☐ Labeling/Manifesting
- ☐ Monitoring/Sampling
- ☐ No Action, Penalty Only
- ☐ Notification/Registration
- ☐ Other (please describe)
- ☐ Permit Application
- ☐ Planning
- ☐ Provide Site Access
- ☐ Public Notice
- ☐ Recordkeeping
- ☐ RI/FS or RD or RFI/CMS
- ☒ Reporting
- ☐ Site/Assessment/Site Characterization
- ☐ Testing
- ☐ Training

15. Cost of actions described in item #14 (Actual cost data supplied by violator is preferred figure.)

Physical actions: \$ _____

[REQUIRED]

Non-Physical actions: \$ 5.00

[REQUIRED]

16. Quantitative environmental impact of actions described in item #14 (Add additional pollutants on blank sheet)
REDUCTIONS/ELIMINATIONS/TREATMENT/PROPER MANAGEMENT

Pollutant/Chemical/Waste Stream	Annual Amount	Unit	Media Affected (Indicate media for each pollutant)
Asbestos	613	lb/yr	Air
			Animals (only applies to FIFRA)
			Humans (only applies to FIFRA)
			Plants (only applies to FIFRA)
			Land (includes RCRA waste, FIFRA pesticides, TSCA asbestos/PCBs)
			Soil (CERCLA/RCRA Corrective Action, TSCA PCBs, UST soil, UIC remedial activities)
			Schools/Housing/Buildings (includes TSCA lead paint and asbestos)
			Water (biosolids and other sludges)
			Water (drinking)
			Water (ground)
			Water (navigable)
			Water (sediment)
			Water (stormwater)
			Water (wastewater to or from POTW)
			Water (wetlands)

C. Supplemental Environmental Project (SEP) Information (Y/N) If Yes, option(s) below:

17. Categories of SEP(s) (Check all appropriate categories; if none proceed to Section D or E)

- (a) Public Health
 (b) Pollution Prevention (Complete Q. 21)
 (1) equipment/technology modifications
 (2) process/procedure modification
 (3) product reformulation/redesign
 (4) raw materials substitution
 (5) improved housekeeping/O&M/training/inventory-control
 (6) in-process recycling
 (7) energy efficiency/conservation
 (c) Pollution Reduction (Complete Q. 21)
 (d) Environmental Restoration and Protection (Complete Q.21)
 (e) Assessments and Audits
 (f) Environmental Compliance Promotion
 (g) Emergency Planning and Preparedness
 (h) Other SEP category (specify)

Cost

18. SEP description

19. Cost of SEP. Cost calculated by the Project Model is preferred. \$

20. Is Environmental Justice addressed by impact of SEP? (Y/N)

21. Quantitative environmental pollutants and/or chemicals and/or waste-streams, amount of reductions/eliminations (e.g., emissions/discharges)

Pollutant/Chemical Waste Stream	Annual Amount	Unit	Media Affected (Indicate media for each pollutant)
Asbestos	613	lb/yr	Air
			Animals (only applies to FIFRA)
			Humans (only applies to FIFRA)
			Plants (only applies to FIFRA)
			Humans (only applies to FIFRA)
			Land (includes RCRA waste, FIFRA pesticides, TSCA Asbestos/PCBs)
			Schools/Housing/Buildings (includes TSCA lead paint and asbestos)
			Soil (CERCLA/RCRA Corrective Action, TSCA PCBs, UST soil, UIC remedial activities)
			Water (drinking)
			Water (ground)
			Water (navigable)
			Water (sediment)
			Water (stormwater)
			Water (navigable)
			Water (wastewater to or from POTW)
			Water (wetlands)

D. Penalty (if there is no penalty, enter 0 and proceed to E)

22.(a) Assessed Penalty \$ 220.00

23.(b) (if shared) Federal share \$

24.(c) (if shared) State or Local share \$

25. For multi-media actions, Federal amounts by statute:

Statute

Amount

Statute

Amount

\$

\$

E. Cost Recovery (If there is no cost recovery, enter 0 and proceed to F)

26. Amount cost recovery awarded: EPA \$ State and/or Local Government \$ Other \$

F. MOA PRIORITY FY 2004 ACTIVITY (Y/N) If Yes, ✓ option(s) below and proceed to I:

- | | |
|---|--|
| <input type="checkbox"/> CAA Air Toxics and NSR/PSD - Coal Fired Power Plant | <input type="checkbox"/> CAA Air Toxics and NSR/PSD - Coal-Fired Power Plant (SIC 4911) |
| <input type="checkbox"/> CAA Air Toxics and NSR/PSD - NSR | <input type="checkbox"/> CAA Air Toxics and NSR/PSD - PSD |
| <input type="checkbox"/> CAA Air Toxics & NSR/PSD - Coal-Fired Power Plant | <input type="checkbox"/> Chemical Sector - SIC 2869, 2899 |
| <input type="checkbox"/> Iron and Steel - K061 Noncompliance (RKOGI) | <input type="checkbox"/> Iron and Steel - SIC 3312, 3315, 3316, 3317 and for Unregulated Waste (UNREG) |
| <input type="checkbox"/> Metal Services - SIC 3471, 3479 | <input type="checkbox"/> Petroleum Refining - Benzene Waste (BENZW) |
| <input type="checkbox"/> Petroleum Refining - LDAR (LDAR) | <input type="checkbox"/> Petroleum Refining - Refinery Fuel Gas |
| <input type="checkbox"/> Primary NonFerrous Metals - SIC 3331, 3334, 3339 and for Bevil Enforcement Actions (BEVIL) | <input type="checkbox"/> RCRA Permits Evaders - Misidentified Wastes (RMISWT) |
| <input type="checkbox"/> RCRA - Misidentified Wastes (RMSWT) | <input type="checkbox"/> RCRA- Permit Evaders (RCRPE) |
| <input type="checkbox"/> RCRA Permit Evaders - RCRA Permit Evaders (RCRPE) | <input type="checkbox"/> SDWA Microbial - SWTR Violations (SWTR) |
| <input type="checkbox"/> SDWA Microbial - Other Microbial (OMICRO) | <input type="checkbox"/> Wet Weather - CAFO (AFL0T) |
| <input type="checkbox"/> SDWA Microbial - TCR Violations (PWTCR) | <input type="checkbox"/> Wet Weather - Sanitary Sewer Overflow (SSO) |
| <input type="checkbox"/> Wet Weather - CSO (CSO) | <input type="checkbox"/> Wet Weather, Stormwater - Industrial |
| <input type="checkbox"/> Wet Weather, Stormwater - Construction | <input type="checkbox"/> Wet Weather, Stormwater - (STORM) |
| <input type="checkbox"/> Wet Weather, Stormwater - Municipal | |

G. REGIONAL PRIORITY (Y/N) If Yes, ✓ option(s) below and proceed to I:

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Acid Mine Drainage | <input type="checkbox"/> Consumer Confidence Rule | <input type="checkbox"/> Integrated Strategies | <input type="checkbox"/> Lead in Schools |
| <input type="checkbox"/> Prison Initiative | <input type="checkbox"/> SDWA Contamination Investigations | <input type="checkbox"/> Vinyl Chloride Initiative | |

H. Core Priority (Y/N) If no, one of the above priorities in blocks F or G must be Yes

I. SELF-DISCLOSURE (If no, proceed to completing the Concurrences)

27. Voluntary Self-Disclosure Policy Requested? (Y/N) Date Violation Disclosed: ____/____/____
28. Comments: _____
29. Disclosure under Audit Policy? (Y/N) (If yes, you should NOT enter information in the SBREFA or Small Business fields)
30. Disclosure under EPA's Small Business Policy (<100 employees)? (Y/N)
31. Disclosure Received by an Office other than OECEJ? (Y/N) If yes, Office: _____
32. Disclosure Part of Media/Sector Initiative? (Y/N) If yes ✓ option(s) below:
- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Airlines | <input type="checkbox"/> Industrial Organic Chemical | <input type="checkbox"/> Common Sense Initiative | <input type="checkbox"/> Environmental Justice Concerns |
| <input type="checkbox"/> Iron and Steel Minimills | <input type="checkbox"/> Industrial Vegetable Oil | <input type="checkbox"/> NESS | <input type="checkbox"/> Project XL |
| <input type="checkbox"/> Stormwater-Construction | <input type="checkbox"/> Stormwater-Industrial | <input type="checkbox"/> Stormwater-Municipal | <input type="checkbox"/> SDWAUIC Class V Tribal Initiative |
| <input type="checkbox"/> TELE-Telecommunications | <input type="checkbox"/> TSCA Lead 1018 Initiative | <input type="checkbox"/> TS12 - TSCA 12B | <input type="checkbox"/> TS8E - TSCA 8E |
| | | | <input type="checkbox"/> Unknown |
33. Disclosure Part of Compliance Incentive Program Listing? (Y/N) If yes ✓ option(s) below:
- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Bakers CFC Partnership Program | <input type="checkbox"/> CMOM POTW Program | <input type="checkbox"/> Colleges & Universities Program | <input type="checkbox"/> Grain Processing Program |
| <input type="checkbox"/> Industrial Organic Chemical Program | <input type="checkbox"/> Lead Disclosure Program | <input type="checkbox"/> National Iron & Steel Incentive Program | |
| <input type="checkbox"/> Oil & Gas Program | <input type="checkbox"/> Prisons Program | <input type="checkbox"/> Storage Tank Emission Reduction Partnership Program | |
| <input type="checkbox"/> Stormwater/Commercial Development Program | <input type="checkbox"/> Telecommunications Incentive Program | <input type="checkbox"/> Wood Treating Program | |
34. Outstanding Issues? (Y/N) If yes, please describe: _____
35. Penalty Information for Audit Policy Cases only: (All fields required for Audit Policy)
- (a) Penalty Calculation Before Mitigation: \$ _____ (c) Gravity Based Penalty Assessed: \$ _____
- (b) Gravity Based Penalty Waived: ____% and \$ _____ (d) Economic Benefit Assessed: \$ _____
36. Rationale for Not Applying Disclosure Policy (Use only if 35(b) and 35(c) above is zero)
- | | |
|---|---|
| <input type="checkbox"/> Actual Serious Harm or Imminent & Substantial Endangerment | <input type="checkbox"/> Agreement or Order Violated |
| <input type="checkbox"/> Cooperation Insufficient | <input type="checkbox"/> Deferred to the State |
| <input type="checkbox"/> Disclosure Not Prompt | <input type="checkbox"/> Disclosure Not Voluntary |
| <input type="checkbox"/> Discovery and Disclosure Not Independent | <input type="checkbox"/> Entity Had Repeat Violations |
| <input type="checkbox"/> Federal Facility That Would Not Be Liable for a Penalty | <input type="checkbox"/> No Violation(s) Occurred |
| <input type="checkbox"/> Not a Systematic Discovery | <input type="checkbox"/> Violation(s) Not Corrected Expeditiously |

CONCURRENCES

SYMBOL							
SURNAME	S. Forostiak	R. Davis	H. Daw	R. Smolski	J. Webb		
DATE	12-5-03	12-8-03	12-11-03	12-15-03	12-17-03		

*Fill in concurrence chain. Include, at a minimum: ORC Staff, ORC Br Chf, Prg Staff, Prg Br Chf, DD, RC.

ROUTING AND TRANSMITTAL SLIP

Date

12-18-03

TO: (Name, office symbol, room number,
building, Agency/ Post)

Initials

Date

1. R. Saranjinn

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

S-CAFO CAA/NESHAP
Newber Environmental Serv. In

DO NOT use this form as a RECORD of approvals, concurrences, disposals,
clearances, and similar actions

FROM: (Name, org. symbol, Agency/ Post)

Room No. — Bldg.

Stephen Forstink

108

Phone No.

2136

5041-103

OPTIONAL FORM 41 (Rev. 1-94)

Prescribed by GSA

UNICOR FPI - SST



ASBESTOS ABATEMENT AND DEMOLITION/RENOVATION NOTIFICATION FORM

For Official Use Only

Postmark Date: _____

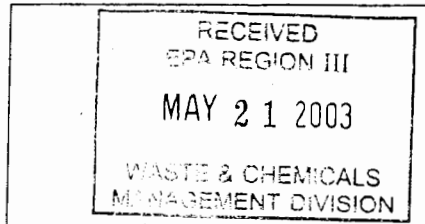
Project ID#: _____

Permit #: _____

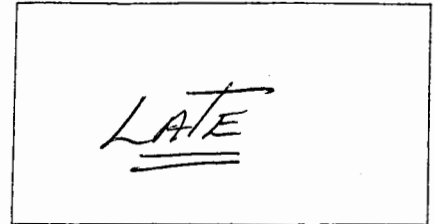
Other #: _____

Inspector: _____

Date Received 1



Date Received 2



REFER TO THE ATTACHED INSTRUCTIONS FOR INFORMATION AND REQUIREMENTS.

1. TYPE OF NOTIFICATION (check one):		<input checked="" type="checkbox"/> Initial	<input type="checkbox"/> Annual Notification
<input type="checkbox"/> Revision (highlight here, and changes)		<input type="checkbox"/> Phase of Annual Notification	
<input type="checkbox"/> Postponement		<input type="checkbox"/> Cancellation	
Date of Initial Notification or, if previously revised, date of last revision: _____			
2. PROJECT LOCATION (check one):		<input checked="" type="checkbox"/> Other Location in PA (specify county): <u>Chester</u>	
<input type="checkbox"/> Allegheny County		<input type="checkbox"/> City of Philadelphia	
3. For Allegheny County and City of Philadelphia projects only:			
A. Does this project require a permit? <input type="checkbox"/> Yes <input type="checkbox"/> No (If Yes is checked, a permit application must be submitted along with this notification and approved prior to the start of the project.)			
B. For City of Philadelphia projects requiring a permit:			
Asbestos project inspector: _____		Certification #: _____	
Company name: _____			
Address: _____			
City: _____		State: _____	Zip: _____ Phone: _____
4. WILL ALTERNATIVE METHODS TO ANY OF THE APPLICABLE REGULATIONS BE USED? <input type="checkbox"/> Yes <input type="checkbox"/> No			
(If Yes is checked, approval must be obtained prior to the start of the project. Please contact the appropriate DEP regional office or local government agency (see reverse of Instruction Sheet for contact list).)			
5. TYPE OF OPERATION (check one):		<input type="checkbox"/> Abatement prior to Demolition	
<input type="checkbox"/> Demolition <input type="checkbox"/> Ordered Demolition		<input checked="" type="checkbox"/> Renovation <input type="checkbox"/> Emergency Renovation	
6. FACILITY DESCRIPTION:		Job No.: <u>03-021</u> (see instructions)	
Facility Name: <u>The Newcomen Society</u>			
Street/Rural Address: <u>412 Newcomen Road</u>			
City: <u>Exton</u>		State: <u>PA</u>	Zip Code: <u>19341</u>
Present use: <u>Offices</u>		Prior use: <u>residence/misc.</u>	
Will the facility be occupied during the abatement activity? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Facility size in square feet: <u>5,000</u>		# of floors: <u>2</u>	Age in years: <u>90+</u>
7. ABATEMENT CONTRACTOR:			
Company name: <u>Neuber Environmental Services, Inc.</u>			
Allegheny County or City of Philadelphia License # (if applicable): _____			
Street/Rural/POB Address: <u>42 Ridge Road/P.O. Box 541</u>			
City: <u>Phoenixville</u>		State: <u>PA</u>	Zip: <u>19460</u>
Contact: <u>Jeffrey A. LaRiviere</u>		Telephone No. (between 8:00 & 4:30): <u>610-933-4332</u>	

8. DEMOLITION CONTRACTOR:

Company name: _____
 Street/Rural/POB Address: _____
 City: _____ State: _____ Zip: _____
 Contact: _____ Telephone No. (between 8:00 & 4:30): _____

9. FACILITY OWNER:

Owner name: The Newcomen Society
 Street/Rural/POB Address: 412 Newcomen Road
 City: Exton State: PA Zip: 19341
 Contact: John Prinz Telephone No. (between 8:00 & 4:30): 610-363-6600

10. FACILITY INSPECTION (required for renovation and demolition projects):

Building inspector: _____ Certification # _____
 Date of inspection: _____ Is any material assumed to be asbestos? ☐ Yes ☐ No
 Procedure, including analytical method, if appropriate, used to detect the presence of asbestos material:

☐ Building is ID and in danger of collapse. An asbestos investigator will be on site during demolition. (Philadelphia only)

11. IS ANY TYPE OF ASBESTOS PRESENT ☒ Yes ☐ No If Yes, please list in #12

12. TYPE OF ACM, DESCRIPTION & LOCATION OF MATERIAL, APPROXIMATE AMOUNT OF ACM, TYPE OF ABATEMENT AND FINAL AIR CLEARANCE METHOD.

PROVIDE INFORMATION IN THE SPACES BELOW, THEN CONTINUE ON ANOTHER SHEET, IF NECESSARY, USING THE SAME FORMAT.

Code *	Description of material	Location of material (room/floor/area)	Amount of ACM	Code **	Code ***	Code ****
FRI	Pipe Insulation	Crawl Space 1	226	lf	rem	pcm
FRI	Pipe Insulation	Crawl Space 2	387	lf	rem	pcm

Code *
Type of ACM

Code **
Units

Code ***
Type of abatement

Code ****
Final Clearance

FRI - Friable ACM
 NF1 - Cat I nonfriable ACM
 NF2 - Cat II nonfriable ACM
 (Note: Allegheny County
 treats all ACM as friable)

LF - Linear ft.
 SF - Square ft.
 CF - Cubic ft.

REM - Removal
 CAP - Encapsulation
 CLO - Enclosure
 NON - None

PCM - Phase contrast microscopy
 TEM - Transmission electron microscopy

13. Is this project regulated by NESHAP ☒ Yes ☐ No

A project that includes the demolition of any defined "facility" is regulated by NESHAP. A renovation project is also regulated by NESHAP when the amounts of friable ACM, or ACM that may be rendered friable, are as follows: 260 LF or 160 SF or 35 CF.

14. OPERATION SCHEDULE(S) (as applicable)

A. Asbestos abatement:

Start Date: 5/27/2003Completion Date: 5/30/2003

Daily hours of operation:

7:00 ☒ am ☐ pmto 3:30 ☐ am ☒ pm

Days of week (check)

☐ Mo☒ Tu☒ We☒ Th☐ Fr☐ Sa☐ Su

B. Demolition:

Start Date: _____

Completion Date: _____

Daily hours of operation:

_____ ☐ am ☐ pmto _____ ☐ am ☐ pm

Days of week (check)

☐ Mo☐ Tu☐ We☐ Th☐ Fr☐ Sa☐ Su

C. Renovation:

Start Date: _____

Completion Date: _____

Daily hours of operation:

_____ ☐ am ☐ pmto _____ ☐ am ☐ pm

Days of week (check)

☐ Mo☐ Tu☐ We☐ Th☐ Fr☐ Sa☐ Su

COMMENTS:

15. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK:
No planned renovations.16. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO REMOVE ACM AND TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:
Critical barriers in the crawl spaces, air filtration units, decon system.
ACM will be thoroughly wetted and placed in six mil waste bags. Drop poly
on ground below areas to be abated.

17. WASTE TRANSPORTER(S)

A. Transporter #1 name: Service Transport GroupStreet/Rural Address: P.O. Box 2132City: BristolState: PAZip: 19007Contact: Randy BridgesTelephone: 877-999-9559

B. Transporter #2 name: _____

Street/Rural Address: _____

City: _____ State: _____ Zip: _____

Contact: _____ Telephone: _____

18. WASTE DISPOSAL SITE(S): (any asbestos containing material)

- A. Landfill name: Greenridge Reclamation DEP permit #: 100281
 Street/Rural Address: RD#1, Box 716
 City: Landfill Road/Scottdale State: PA Zip: 15683
 Contact: scale Telephone: 724-887-9400
- B. Landfill name: _____ DEP permit #: _____
 Street/Rural Address: _____
 City: _____ State: _____ Zip: _____
 Contact: _____ Telephone: _____

19. AIR MONITORING FIRM(S)

- A. Company name/individual: Asbestos Management Consultants
 Street/Rural Address: Pavillions @ Greentree, Suite 404
 City: Marlton State: NJ Zip: 08053
 Contact: Ray Giordano Telephone: 856-988-1991
- B. Final clearance firm: (if different than 18A) _____
 Street/Rural Address: _____
 City: _____ State: _____ Zip: _____
 Contact: _____ Telephone: _____
- Final clearance firm was hired by (check one) ☒ Contractor ☐ Owner
☐ Other Explain _____

20. AIR SAMPLE FIRM(S) (City of Philadelphia projects only)

- A. PCM company name/individual: _____ Certification #: _____
 Street/Rural Address: _____
 City: _____ State: _____ Zip: _____
 Contact: _____ Telephone: _____
- B. TEM company name: _____ Certification #: _____
 Street/Rural Address: _____
 City: _____ State: _____ Zip: _____
 Contact: _____ Telephone: _____

21. FOR EMERGENCY RENOVATIONS:

Date of emergency (mm/dd/yy): _____ Hour of emergency: _____ ☐ am ☐ pm
 Description of the sudden, unexpected event:

Explanation of how the event caused unsafe conditions or would cause equipment damage or an unreasonable financial burden as a consequence of complying with the 10 working day notification requirement:

22. FOR ORDERED DEMOLITIONS (attach copy of order):

Government agency that ordered: _____
Name of individual who ordered: _____ Title: _____
Date of order (mm/dd/yy): _____ Date ordered to begin (mm/dd/yy): _____

23. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER:

24. PENNSYLVANIA CERTIFICATIONS/LICENSES:

Project designer: <u>n/a</u>	Certification #: _____
Contractor (Individual): <u>Jeff LaRiviere</u>	Certification #: <u>4640</u>
Supervisor: <u>Dave Daigle</u>	Certification #: <u>2351</u>
Contractor (Firm) <u>NES, Inc.</u>	Certification #: <u>C0144A</u>

***** SIGN BOTH STATEMENTS *****

25. I HEREBY CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF 40 CFR PART 61 SUBPART M (if applicable) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING ALL WORKING HOURS, AND I CERTIFY THAT ALL WORK WILL BE DONE IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL AGENCY RULES AND REGULATIONS.

(Original Signature of Owner/Operator) 05-20-03
(Date)

Printed Name of Owner/Operator: Jeffrey LaRiviere Title: V.P.

26. I HEREBY CERTIFY THAT THE FOREGOING STATEMENTS AND THE INFORMATION CONTAINED IN THIS NOTIFICATION FORM ARE TRUE. THIS CERTIFICATION IS MADE SUBJECT TO THE PENALTIES SET FORTH IN 18 PA C.S. §4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

(Original Signature of Owner/Operator) 05-20-03
(Date)

Printed Name of Owner/Operator: Jeffrey LaRiviere Title: V.P.

FOR OFFICIAL USE ONLY



ASBESTOS ABATEMENT AND DEMOLITION/RENOVATION NOTIFICATION FORM

Complete all applicable sections of the notification. Fax copies are not accepted, as the notification must be certified with an **original signature**. To avoid a violation by failure to report, it would be prudent to submit a notification regardless of friability of materials. This form is used to satisfy the notification requirements of the following agencies:

- PA Department of Environmental Protection
- PA Department of Labor and Industry
- Allegheny County Health Department
- City of Philadelphia Department of Public Health
- US Environmental Protection Agency

Questions relative to specific filing requirements and enforcement regulations should be directed to the governing agency. Addresses and phone numbers are listed on the reverse. **Do not mail original notifications to the Department of Labor and Industry.**

Special Notations:

- All REVISIONS to a previous notification should be highlighted
- Item #5 - Check the box that best describes the entire project
- Item #6 - The "Job No." portion of this Item is provided for those contractors who assign a unique job # to their projects
- Item #12 - Please provide the information in the format requested
- If additional space is needed for any descriptive text, please continue on a blank sheet, and attach

For projects in all areas except Allegheny County and the City of Philadelphia, this Notification and subsequent revisions (one original only, **no copies**) must be submitted to the following address.

Regular Mail
ASBESTOS NOTIFICATION
DEP BUREAU OF AIR QUALITY
PO BOX 8468
HARRISBURG, PA 17105-8468

Overnight/Express Mail/Hand Delivery
ASBESTOS NOTIFICATION
DEP BUREAU OF AIR QUALITY
400 MARKET STREET
HARRISBURG, PA 17101

For projects in Allegheny County or the City of Philadelphia, this form **must be submitted to the appropriate address**, directly following. Allegheny County requires two copies, the City of Philadelphia, three. If this project requires a permit application, it must be approved prior to the start of the project, and 2 copies must be included with the notification. A copy of the facility inspection survey must also be included for all demolition projects. Do not send these documents directly to Harrisburg.

Allegheny County Health Department
Air Quality Program
Building 7
301 39th Street
Pittsburgh, PA 15201-1891
Attn: Asbestos Abatement Permitting

City of Philadelphia
Department of Public Health
Air Management Services
Asbestos Control Unit
321 University Avenue
Philadelphia, PA 19104-4597

Allegheny County - A permit is required if the project involves at least 260 linear feet or 160 square feet of any asbestos containing material. For Item #10, the survey must be included for demolition projects. Item #25 should be signed by the Contractor. Item #26 should be signed by the Facility Owner. Information can be obtained by calling 412-578-8133.

City of Philadelphia - A permit is required if the project involves 80 or more square feet or 40 or more linear feet of friable asbestos containing material and does not involve an exempted private residence. Information can be obtained by calling 215-685-7576.

If this project is regulated by the Asbestos **NESHAP**, a photocopy of this notification must be sent to EPA Region III at the address directly following. EPA's telephone number is 215-814-2164/215-814-2135.

Asbestos NESHAP Coordinator (3WC32)
US EPA Region III
1650 Arch Street
Philadelphia, PA 19103

Questions regarding completion of the notification form should be directed to 717-772-3993/717-787-9257 or the appropriate enforcement agency listed on the reverse.

REMINDER: Notifications must contain original signatures for items 25 and 26 or they will be returned to the sender, unprocessed. If a notification is returned for original signature, the ten-day reporting period will begin with the postmark date of the resubmitted notification with original signature.

-- SEE REVERSE FOR LIST OF CONTACTS --

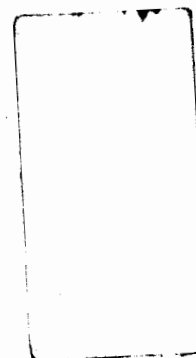
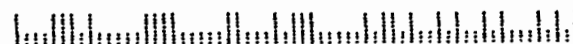
**NEUBER
ENVIRONMENTAL SERVICES, INC.**

*P.O. Box 541
Phoenixville, PA 19460*



**EPA Region III
Pesticides/Asbestos Enforcement
Branch
Mail Code: 3WC32
1650 Arch Street
Philadelphia, PA 19103-2029**

19103+2029 01





PESTICIDES/ASBESTOS Branch - Enforcement Action Checklist

As of 10/24/02

1. Case Name: Newby Environmental Services Inc.

2. Consultative Process Notification Memo Dates (2)

After Tier Meeting - Insert Date Completed Here - 9-18-03

Before Issuance of Enforcement Action - Insert Date Completed Here -

☒ 3. Salient Issue/WAR Items - CC Russell on all enforcement-related salients

☒ 4. Milestones - Enter Case Information into the System - Include printout

☒ 5. FTTS Case Number: _____

☒ 6. FTTS Data Entry/Enforcement Action Form - include originals

☒ 7. ICIS Data Entry - include printout

☒ 8. NARS Data Entry Form - For NESHAP Cases Only - include original

9. Case Tracking Data Entry Print Screen - Enforcement Leader

10. 30-day Advance Notification - submit summaries to Racine

☒ 11. Case Development Summary Form

☒ 12. Case Conclusion Data Sheet - CCDS (Sections A3, B17-18)

13. Environmental Justice Case - YES

☒ NO

14. Children's Health Initiative Case - YES

☒ NO



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Customer Service Hotline: 1-800-438-2474

Stephen Forostiak

11/06/2003 11:16 AM

To: davis.racine@epa.gov

cc:

Subject: 30 day notification summary- Neuber Environmental Services

Racine,

A quick resolution S-CAFO letter is being issued to Neuber Environmental Services, Inc. for NESHAP violation, **failure to Provide 10 day notification.**

The facility information is: The Newcomen Society, Exton, PA.

Stephen Forostiak

Pesticides/Asbestos Programs & Enforcement Branch

EPA Region III - 3WC32

1650 Arch Street

Philadelphia, PA 19103-2029

215-814-2136

215-814-3113 - Fax

forostiak.stephen@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 17 2003

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Re: Neuber Environmental Services, Inc. – Late Asbestos Notification
Docket No. CAA-03-2004-0025

Dear LaRiviere:

Our information shows that you have violated the U. S. Environmental Protection Agency's ("EPA"), requirements for asbestos removal activities. In order to resolve this violation quickly, we are sending you a legal agreement that we expect you to sign and return to us **within fifteen (15) calendar days of receipt of this correspondence.**

According to EPA's asbestos demolition and renovation regulations, each owner or operator of a demolition or renovation activity is required to provide an asbestos notification at least ten (10) working days **before** asbestos stripping or removal work or any other activity begins. Any notification that contains a postmark date that is not received ten (10) working days before the project start date is considered late and is a violation of the Clean Air Act.

On May 21, 2003 EPA, Region III, received a notification for an asbestos renovation/demolition project for Newcomen Society located at 412 Newcomen Road Exton, Pennsylvania, from Neuber Environmental Services, Inc. The project involved the removal of 226 linear foot of pipe insulation in Crawl Space 1 and 387 linear foot of pipe insulation in Crawl Space 2. According to the asbestos notification, the asbestos abatement was to **begin** on May 27, 2003 and **conclude** on May 30, 2003. Based on the May 20, 2003 postmark date, the notification was sent six (6) working days prior to the project start date in violation of the 10 working day prior notice requirement.

Because Neuber Environmental Services, Inc. has violated the Clean Air Act, ("the Act"), EPA may assess an administrative penalty of up to \$27,500 per day for each day that Respondent has violated the Act. The process of assessing an administrative penalty generally is commenced with the filing of a Complaint with the Regional Hearing Clerk, after which the recipient has the right to a hearing and other procedural protections pursuant to Section 113(b), 42 U.S.C. § 7413(b), and the "*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*" ("*Consolidated Rules*"), 40 C.F.R. Part 22.



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Customer Service Hotline: 1-800-438-2474

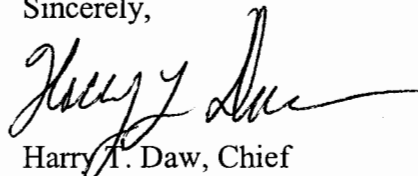
If the parties agree to resolve violations prior to the filing of a Complaint, the *Consolidated Rules* permit the proceeding to be commenced and concluded simultaneously by the issuance of a Consent Agreement signed by both parties and an accompanying Final Order (see 40 C.F.R. § 22.13(b).) The purpose of this letter is to provide Neuber Environmental Services, Inc. with an opportunity to resolve the violation prior to the filing of a Complaint by entering into a Consent Agreement and Final Order.

In lieu of filing a formal Complaint in this matter or entering into protracted litigation, EPA is willing to resolve this matter for two hundred twenty dollars (\$220.00). We have calculated this penalty in accordance with EPA's Asbestos Demolition and Renovation Civil Penalty Policy, which has been enclosed with this correspondence. If you are interested in resolving this matter quickly, sign the enclosed Consent Agreement where we have marked "sign here," and send the entire original back to EPA **within fifteen (15) calendar days after receipt** of this correspondence. After EPA receives the signed Consent Agreement, we will review it and send you a copy of the Consent Agreement and Final Order (CAFO). Once you receive the final CAFO, follow the penalty payment instructions in paragraph 10 of the Consent Agreement. Once the civil penalty is paid, EPA will take no further civil penalty action against you for the violations recited in the Order.

Because EPA is offering this consent agreement as a means to resolve your violations quickly, EPA views the terms of the consent agreement as non-negotiable. If EPA does not hear from Neuber Environmental Services, Inc. **within fifteen (15) calendar days** of receipt of this correspondence, EPA's offer of this settlement will be automatically withdrawn. EPA may then pursue enforcement actions for the violation listed in this letter, including the filing of an administrative complaint. If EPA pursues additional enforcement measures, you will receive instructions describing your rights to dispute EPA's claims. Any dispute will entitle you to a full evidentiary hearing before an impartial judge. If you have any questions regarding anything in this letter or the enclosed items, please call Stephen Forostiak **immediately** at (215) 814-2136

Finally, EPA has determined that your company may be a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see the enclosure to this letter which provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to this enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,



Harry A. Daw, Chief

Pesticides/Asbestos Programs & Enforcement Branch

Enclosure(s)

cc: Randall Koppenhaver, PADEP

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:	:	
	:	
Neuber Environmental Services, Inc.	:	
42 Ridge Road	:	
Poenixville, PA 19460	:	DOCKET NO.: CAA-03-2004-0025
	:	
	:	
	:	
RESPONDENT	:	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Complainant, the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA" or "Complainant"), and Respondent, Neuber Environmental Services, Inc., and filed along with the attached Final Order pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. § 7413 and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 C.F.R. Part 22, (the "Consolidated Rules of Practice"). The Consolidated Rules of Practice, at 40 C.F.R. § 22.13 provide, in pertinent part, that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding simultaneously may be commenced and concluded by the issuance of a consent agreement and final order pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3). This Consent Agreement, and the accompanying Final Order, address alleged violations by Respondent of Section 112 of the Clean Air Act, 42 U.S.C. § 7412 ("CAA" or the "Act") and regulations promulgated thereunder at 40 C.F.R. Part 61, Subpart M, the National Emission Standards for Hazardous Air Pollutants for Asbestos ("Asbestos NESHAP").

II. GENERAL PROVISIONS

2. Respondent admits to EPA's jurisdiction as set forth in this Consent Agreement.

3. Respondent neither admits nor denies the specific factual allegations and the conclusions of law set forth in this Consent Agreement and the attached Final Order.
4. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement and the accompanying Final Order (collectively referred to as the "CAFO"), the issuance of the accompanying Final Order, or the enforcement of the CAFO.
5. Respondent consents to the issuance of the accompanying Final Order, and to the terms and conditions set forth therein, and consents to the payment of a civil penalty as set forth in this CAFO.
6. Respondent agrees to pay its own costs and attorney fees.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. In accordance with 40 C.F.R. § 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law:
 - A. Respondent, Neuber Environmental Services, Inc., is a corporation incorporated in the Commonwealth of Pennsylvania with a primary business address of 42 Ridge Road, Phoenixville, Pennsylvania 19460 and is a contractor specializing in asbestos abatement.
 - B. Respondent is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).
 - C. Pursuant to 40 C.F.R. § 61.141 "facility means any institutional, commercial, public, industrial, or residential structure, installation, or building..." The Newcomen Society located at 412 Newcomen Road, Exton, Pennsylvania, is a facility within the meaning of 40 C.F.R. § 61.141.
 - D. Pursuant to 40 C.F.R. § 61.141 "Regulated Asbestos-Containing Material ('RACM') means (a) friable asbestos material, (b) Category I nonfriable asbestos containing material ('ACM') that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations."

- E. Pursuant to 40 C.F.R. § 61.141 “remove means to take out any RACM or facility components that contain or are covered with RACM from any facility.”
- F. Pursuant to 40 C.F.R. § 61.141 “renovation means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component.”
- H. Pursuant to 40 C.F.R. § 61.141 “owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.”
- I. Respondent, at the time of the renovation operations for Newcomen Society, which began on or about May 27, 2003, was the “operator” as the term is defined by 40 C.F.R. § 61.141.
- J. 40 C.F.R. § 61.145(b) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to which this section applies shall: (1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable. (2) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent. (3) Postmark or deliver the notice...(i) at least 10 working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material)....
- K. On May 21, 2003, EPA received notification of an asbestos renovation project at the Newcomen Society from Neuber Environmental Services, Inc. The project involved the removal of 226 linear foot of pipe insulation in Crawl Space 1 and 387 linear foot of pipe insulation in Crawl Space 2.
- L. According to the asbestos notification, the removal was to begin on May 27, 2003. Therefore, the notification needed to be postmarked by May 14, 2003, to fulfill the requirement. However, it was postmarked on May 20, 2003.
- M. Since the asbestos project notification for Newcomen Society was mailed late, Respondent violated the notification requirements of 40 C.F.R. § 61.145(b).

IV. SETTLEMENT RECITATION

Compliance

8. Respondent herein certifies to Complainant and to EPA that, upon investigation, to the best of its knowledge and belief, it presently is in compliance with the provisions of the Act, and the regulations promulgated thereunder, that are referenced in this Consent Agreement and that all violations alleged in the Consent Agreement have been remedied.

Civil Penalty

9. In settlement of the allegations enumerated above, Respondent agrees to pay a civil penalty amount of two hundred twenty dollars (\$220.00) in full satisfaction of all claims for civil penalties which Complainant may have under Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413, and the Asbestos NESHAP, as set forth at 40 C.F.R. Part 61, Subpart M. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, Section 113, 42 U.S.C. § 7413 penalty assessment criteria, including the seriousness of Respondent's violations and Respondent's good faith efforts to comply as provided in the Clean Air Act Stationary Source Civil Penalty Policy, Appendix III, and the Asbestos NESHAP, as set forth at 40 C.F.R. Part 61, Subpart M. Such payment shall be made by Respondent no later than thirty (30) days after the effective date of the accompanying Final Order.
10. Payment of the civil penalty amount required under the terms of Paragraph 9, above, shall be made by either cashier's check, certified check or electronic wire transfer. All checks shall be made payable to "Treasurer, United States of America" and shall be mailed to the attention of U.S. EPA Region III, P.O. Box 360515, Pittsburgh, Pennsylvania 15251-6515 (overnight deliveries shall be sent to Mellon Client Service Center, 500 Ross Street, Room 670, Pittsburgh, PA 15262-0001, ATTENTION: U.S. EPA, Region III, P.O. Box 360515). All payments made by check also shall reference the above case caption and docket number (CAA-03-2004-0025). All electronic wire transfer payments shall be directed to Mellon Bank, Pittsburgh, PA, ABA No. 043000261, crediting account number 9108552, lockbox 36051. At the same time that any payment is made, copies of any corresponding check, or written notification confirming any electronic wire transfer, shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Stephen Forostiak (3WC32), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.
11. The Respondent agrees not to deduct for federal tax purposes the civil penalty specified in this Consent Agreement and the accompanying Final Order.

Reservation of Rights

12. This Consent Agreement and the attached Final Order only resolve those claims which are alleged in Paragraph 7, above. Nothing herein shall be construed to limit the authority of the EPA to undertake action against any person, including Respondent, in response to any condition which Complainant determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nor shall anything in this Consent Agreement and the attached Final Order be construed to limit the United States' authority to pursue criminal sanctions.
13. EPA reserves any rights and remedies available to it to enforce the provisions of this Consent Agreement, the Act and its implementing provisions, and of any other federal laws or regulations for which it has jurisdiction, following the entry of this Consent Agreement.

Waiver of Hearing

14. For the purposes of this proceeding only, the Respondent hereby expressly waives its right to a hearing pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), concerning the finality or validity of this CAFO, or with respect to any issue of law or fact set forth in this CAFO. Respondent also waives its rights to appeal the accompanying Final Order.

Effective Date

15. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III.

The undersigned representative of Respondent certifies that he is fully authorized to execute this Consent Agreement and to legally bind the party he represents.

For Respondent

Neuber Environmental Services, Inc.:

Date

Jeffery A. LaRiviere, President
Neuber Environmental Services, Inc.

For Complainant:

Date

Stephen Forostiak
Asbestos Enforcement Officer
U.S. Environmental Protection Agency, Region III

Accordingly, the Waste and Chemicals Management Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of EPA Region III or his designee, the Regional Judicial Officer, ratify this Consent Agreement and issue the accompanying Final Order. The amount of the recommended civil penalty assessment is two hundred twenty dollars (\$220.00).

Date

James J. Burke, Director
Waste and Chemicals Management Division
U.S. Environmental Protection Agency, Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE:

**Neuber Environmental Services, Inc.
42 Ridge Road
Phoenixville, PA 19460**

Docket No. CAA-03-2004-0025

Respondent

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:

FINAL ORDER

The undersigned accepts and incorporates into this Final Order by reference the Preliminary Statement, General Provisions, Findings of Fact and Conclusion of Law, and Settlement Recitation provisions set forth in the foregoing Consent Agreement as between Complainant, the Director of the Waste and Chemicals Management Division, United States Environmental Protection Agency ("EPA"), Region III, and Respondent Neuber Environmental Services, Incorporated ("Neuber").

NOW THEREFORE, pursuant to 40 C.F.R. § 22.18(b)(3) the undersigned ratifies the foregoing Consent Agreement and HEREBY ORDERS that Respondent Neuber shall be liable for a civil penalty in the amount of two hundred and twenty dollars (\$220.00) for the civil violations alleged therein.

It is FURTHER ORDERED that the Respondent shall pay the two hundred and twenty dollar (\$220.00) civil penalty within thirty (30) days of the date that this Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III.

Date

Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III

NEUBER

ENVIRONMENTAL SERVICES, INC.

"a full service environmental contractor"

JEFF LARMIERE

Vice President

P.O. Box 541
42 Ridge Road
Phoenixville, PA 19460

Tel: (610) 933-4332
Fax: (610) 983-9884
Cell: (610) 587-4296
Email: jeffnesi@aol.com

NEUBER ENVIRONMENTAL SERVICES, INC.

a full service environmental company

November 28, 2003

USEPA Region III
1650 Arch Street
Philadelphia, PA 19103-2029

RE: **Late Asbestos Notification**
Docket # CAA-03-2004-0025

Via: **Fed Ex**

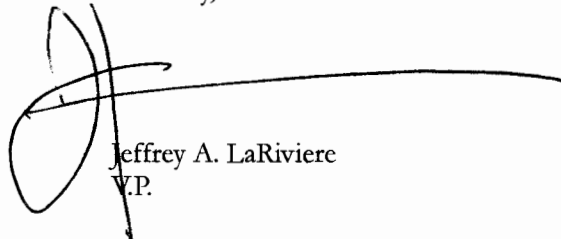
Dear Mr. Forostiak;

We are in receipt of your Notice of Violation for the Late Notification for the project at 412 Newcomen Road – Exton, PA. I truly have no explanation why the required 10 days (working) was not given for the notification. According to my notes for the project time was of the essence for completion of the work, however, no request for waiver was submitted.

As I am sure you are aware, asbestos removal is always the first aspect of almost any project and Asbestos Contractors as a whole are under great pressure not only to maintain schedules but also to commence projects as quickly as possible. Most Owners cannot/do not understand the 10 waiting period from when they give the go ahead until when the project can start. This is usually due to an oversight in their part to allow for this additional 10 days in their schedule.

I use this not as an excuse but rather an insight that may provide value. We merely dropped the ball on this one and I agree to your fine and apologize for any inconvenience this may have caused. Please let us know to whom the check is to be written and where it should be sent.

Sincerely,



Jeffrey A. LaRiviere
V.P.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 17 2003

Jeffrey A. LaRiviere
Neuber Environmental Services, Inc.
42 Ridge Road P.O. Box 541
Phoenixville, PA 19460

Re: Neuber Environmental Services, Inc. – Late Asbestos Notification
Docket No. CAA-03-2004-0025

Dear LaRiviere:

Our information shows that you have violated the U. S. Environmental Protection Agency's ("EPA"), requirements for asbestos removal activities. In order to resolve this violation quickly, we are sending you a legal agreement that we expect you to sign and return to us **within fifteen (15) calendar days of receipt of this correspondence.**

According to EPA's asbestos demolition and renovation regulations, each owner or operator of a demolition or renovation activity is required to provide an asbestos notification at least ten (10) working days **before** asbestos stripping or removal work or any other activity begins. Any notification that contains a postmark date that is not received ten (10) working days before the project start date is considered late and is a violation of the Clean Air Act.

On May 21, 2003 EPA, Region III, received a notification for an asbestos renovation/demolition project for Newcomen Society located at 412 Newcomen Road Exton, Pennsylvania, from Neuber Environmental Services, Inc. The project involved the removal of 226 linear foot of pipe insulation in Crawl Space 1 and 387 linear foot of pipe insulation in Crawl Space 2. According to the asbestos notification, the asbestos abatement was to **begin** on May 27, 2003 and **conclude** on May 30, 2003. Based on the May 20, 2003 postmark date, the notification was sent six (6) working days prior to the project start date in violation of the 10 working day prior notice requirement.

Because Neuber Environmental Services, Inc. has violated the Clean Air Act, ("the Act"), EPA may assess an administrative penalty of up to \$27,500 per day for each day that Respondent has violated the Act. The process of assessing an administrative penalty generally is commenced with the filing of a Complaint with the Regional Hearing Clerk, after which the recipient has the right to a hearing and other procedural protections pursuant to Section 113(b), 42 U.S.C. § 7413(b), and the "*Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*" ("*Consolidated Rules*"), 40 C.F.R. Part 22.



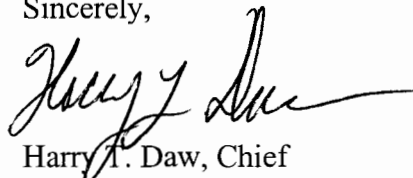
If the parties agree to resolve violations prior to the filing of a Complaint, the *Consolidated Rules* permit the proceeding to be commenced and concluded simultaneously by the issuance of a Consent Agreement signed by both parties and an accompanying Final Order (see 40 C.F.R. § 22.13(b).) The purpose of this letter is to provide Neuber Environmental Services, Inc. with an opportunity to resolve the violation prior to the filing of a Complaint by entering into a Consent Agreement and Final Order.

In lieu of filing a formal Complaint in this matter or entering into protracted litigation, EPA is willing to resolve this matter for two hundred twenty dollars (\$220.00). We have calculated this penalty in accordance with EPA's Asbestos Demolition and Renovation Civil Penalty Policy, which has been enclosed with this correspondence. If you are interested in resolving this matter quickly, sign the enclosed Consent Agreement where we have marked "sign here," and send the entire original back to EPA **within fifteen (15) calendar days after receipt** of this correspondence. After EPA receives the signed Consent Agreement, we will review it and send you a copy of the Consent Agreement and Final Order (CAFO). Once you receive the final CAFO, follow the penalty payment instructions in paragraph 10 of the Consent Agreement. Once the civil penalty is paid, EPA will take no further civil penalty action against you for the violations recited in the Order.

Because EPA is offering this consent agreement as a means to resolve your violations quickly, EPA views the terms of the consent agreement as non-negotiable. If EPA does not hear from Neuber Environmental Services, Inc. **within fifteen (15) calendar days** of receipt of this correspondence, EPA's offer of this settlement will be automatically withdrawn. EPA may then pursue enforcement actions for the violation listed in this letter, including the filing of an administrative complaint. If EPA pursues additional enforcement measures, you will receive instructions describing your rights to dispute EPA's claims. Any dispute will entitle you to a full evidentiary hearing before an impartial judge. If you have any questions regarding anything in this letter or the enclosed items, please call Stephen Forostiak **immediately** at (215) 814-2136

Finally, EPA has determined that your company may be a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see the enclosure to this letter which provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to this enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,



Harry T. Daw, Chief

Pesticides/Asbestos Programs & Enforcement Branch

Enclosure(s)

cc: Randall Koppenhaver, PADEP